

## NOTES OF THE REGISTRY

## ORDERS OF THE TRIBUNAL

01.09.03

Applicant is absent so also  
Res.2.AD not yet back from  
Res.1, 3 and 4 although  
notices sent by Regd.Post  
to them on 4.2.2002 and  
hence service treated  
sufficient on them. Call  
on 22.9.03 for counter,  
if any.

REGISTRAR

App. Hines/Counter  
not b/w.

22-9-2003

Parties are absent on call.  
No steps taken to file any  
Counter. Therefore put up before  
The Bench for further orders.

REGISTRAR

Shri A.K. Bose (see)

has appeared on  
behalf of respd.  
Counter not b/w.  
For orders.

Bench

Order A.22.x.03

copy of counter  
has not been served  
For further orders.

Bench

Order dated 17.12.2003

Applicant No.2 had to face premature  
retirement from service on invalidation ground  
well before attaining the age of superannuation.  
On such premature retirement his son (applicant  
No.1) approached the Respondents-Department  
to provide him an employment on compassionate  
ground in order to overcome the sudden  
indigent condition of the family. The said  
prayer of the applicants having been turned  
down by the Respondents, they have filed this  
Original Application under Section 19 of the  
A.T.Act, 1985, for redressal of their  
grievances.

2. By filing a counter the Respondents-  
Department have disclosed that for the  
following reasons, the Circle High Power  
Committee which met on 18.10.1995, did not  
accede to the prayer of the applicants:

"... (1) the reporting invalidation  
was not convincing. (2) He had  
only 3 years of service left before  
reporting invalidation. (3) His  
two daughters are already married  
and his only son has completed  
education upto +2 Science. (4)  
NOT RECOMMENDED as the financial  
condition is not indigent. (5)  
No major liabilities are there.  
(6) The pension and retirement  
benefits will allow him to meet  
his requirements".

3. Heard Shri D.K.Mohanty, the learned  
counsel for the applicant and Shri A.K.Bose,  
learned Senior Standing Counsel appearing  
on behalf of the Respondents-Department and  
perused the records placed before me.

4. The impugned order emanating from  
the decision of Circle High Power Committee

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NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Dr. Dr. 29.11.03

Copy of counter  
has been ~~checked~~  
For further orders.

Bench

counter

Adj to 17.11.03

Copy of counter served.  
For further orders.

Bench.

Dr. Dr. 17.11.03

Rejoinder not filed  
For Admission and

Hearing

Bench

Dr. Dr. 17.12.03

Copies of order  
prepared for counsell  
for both sides.

Dr. Dr.  
So 30/12/03

(Annexure-9 dated 8.8.2002) goes to show that for the following reasons, the prayer of the applicant No.1 for a compassionate appointment has been rejected:-

" The Government servant got his retirement on medical invalidation at the age of 54 years 11 months and 28 days. His family consist of his father, wife and the applicant who is 34 years of age. The family pension is Rs.5160/- p.m. and other terminal benefits were Rs.1,03,178/- only. Keeping in view the pension amount, the age of applicant and the age at which medical invalidation is taken on a non-convincing ground, the Committee did not find this as a fit case for CGA and rejected the request".

5. Thus, the main ground on which the prayer for compassionate appointment has been rejected is because of ~~family~~ pension and terminal benefits, the family is not indigent. Law is well settled that terminal benefits cannot be computed for the purpose of determining the indigent condition. This view gains support from the decision rendered by the Hon'ble Supreme Court in the case of Balbir Kaur & another vs. Steel Authority of India Ltd., & Ors. (reported in 2002(2) ATT(SC)255 and the decisions rendered by this Bench of the Tribunal in the case of Ranka Nidhi Sahoo vs. Union of India & Ors. (reported in 2002(2)1 CJD(AT) 21 and in the case of Mina Kumar Mohanty & another vs. Union of India & Ors. reported in (1994) 2 ATT(CAT) 120. In this view of the matter the grounds on which the High Power Committee turned down the prayer of the applicant are not sustainable in the eyes of law.

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6. Apart from the above, so far as indigent condition of the family is concerned, learned counsel for the applicant drew my attention to Annexure-8 dated 1.5.2002 (which is an inquiry report submitted by Shri R.Sethy, A.G.M.(Legal) Cum-Investigating Officer of the Office of C.G.M.T., Orissa Bhubaneswar. The inference drawn and recommendations made by the Investigating Officer therein read as under:

"Inferences: In view of the above facts and circumstances, it is quite evident that the family condition of Sri Bhaskar Dash is very pitiable. It is too difficult on his part to maintain his family. He is living a miserable life that needs some assistance. The family condition is quite indigent. The compassionate appointment of his son to a befitting post is absolutely necessary for survival of his family.

Recommendation: The compassionate appointment in respect of Sri P.K.Dash (applicant) son of Sri Dash is highly recommended".

7. Thus, the decision taken by the Circle High Power Committee that the applicant's family is not indigent is either bereft of this inquiry report or travesty of truth. In the face of the recommendation made by the inquiry officer (as quoted above) the High Power Committee is estopped to go beyond and take a decision that the applicant is not indigent.

8. So far as ~~ever~~ age of the applicant, it is needless for me to mention that, while going through Annexure-R/1 dated 18.10.1995 (filed by the Respondents to the counter) wherein the Circle High Power Committee considered the cases of persons ~~of~~ similarly circumstanced. In the said minutes at Sl.No.3 Shri Braja Bihari Pattnaik, S/o. Late B.D.Pattnaik, whose case has been recommended by the High Power Committee for appointment in Group-D category. 7

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has been given age relaxation. Therefore, there is no scope for the Respondents-Department to say that the applicant in the instant case is overaged, and in view of this objection of the Respondents in this regard is overruled being discriminatory.

9. For the reasons discussed above, I hereby direct the Respondents-Department to consider the case of the applicant for appointment on compassionate ground against a suitable vacancy commensurate with his educational qualification; which they should do within a period of 120 days from the date of receipt of copies of this order.

10. In the result, this O.A. is allowed to the extent indicated above. No costs.

*Manoranjan Mohanty*  
17.12.2003  
(MANORANJAN MOHANTY)  
MEMBER (JUDICIAL)